

REMARKS

Introduction

Claims 1-7, 10-12, 15-19 and 30-31 are pending in this application, of which claim 1 is independent. Claims 8-9, 13-14 and 20-29 have been cancelled.

Claims 1, 12, 18 and 19 have been amended to correct informalities in the claim language and to more clearly define the present subject matter. Support for the amendment is found, for example, in FIG. 3 of the present disclosure. Care has been taken to avoid introducing new matter.

For at least the reasons set forth below, it is respectfully submitted that all pending claims are now in condition for allowance.

Rejection under 35 U.S.C. § 103

Claims 1-4, 11-14, 16-19 and 30-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Misaka (WO 02/091079 with English translation US 2004/0029023) in view of Misaka (US 2004/0121244) and Heissmeier (US 2002/0155362). Claims 5-7, 10 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Misaka '023 in view of Misaka '244 and Heissmeier, and in view of Ohsaki (US 6,586,168). Applicant traverses these rejections for at least the following reasons.

Applicant submits that amended claim 1 recites *inter alia*, a photomask . . . wherein [a] a pattern width of the first pattern in a short side direction is the same as a pattern width of the second pattern in a short side direction, and [b] the first line width [of the first phase shifter in the first pattern to which a third pattern is adjacent] is smaller than the second line width [of the second phase shifter in the second pattern]. For example, as illustrated in FIG. 3 of the present

disclosure, the width F4A of the phase shifter of the first pattern (i.e., a center of three patterns) is smaller than the width F4B of the phase shifter of the second pattern, while both of the first pattern and second pattern have the same width L4. In other words, a line width of a phase shifter varies depending on whether the pattern is adjacent to other patterns.

Applicant respectfully submits that, at a minimum, none of the cited references discloses or suggests the above identified features of claim 1. The Examiner asserts that FIGS. 28-30 of Misaka '023 and FIG. 16B of Misaka '244 disclose the patterns having different widths from each other. However, FIGS. 28-30 of Misaka '023 and FIG. 16B of Misaka '244 illustrate that, as the pattern width of the pattern in a short side direction increases, the width of the phase shifter in the pattern becomes smaller, or no phase shifter is formed when the pattern width of the pattern in the short side direction is large. In other words, Misaka '023 and Misaka '244 fail to disclose that in two patterns having the **same** pattern width, a line width of the phase shifter varies depending on whether the pattern is adjacent to another pattern. As such, it is clear that Misaka '023 and Misaka '244 fails to disclose that "*said first line width is smaller than said second line width,*" and "*a pattern width of said first pattern in a short side direction is the same as a pattern width of said second pattern in a short side direction,*" as recited by amended claim 1. Further, it is clear that none of the other cited references cures the deficiencies of Misaka '023 and Misaka '244, and it would not have been obvious to add these features to any combination of the cited references.

Accordingly, claim 1 and all claims dependent thereon are patentable over the cited references. Thus, Applicant respectfully requests that the Examiner withdraw the rejection of claims 1-7, 10-12, 15-19 and 30-31 under 35 U.S.C. § 103.

Conclusion

Having fully responded to all matters raised in the Office Action, Applicant submits that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicant's attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Takashi Saito
Limited Recognition No. L0123

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 MEF:TS/llg
Facsimile: 202.756.8087
Date: April 21, 2010

**Please recognize our Customer No. 53080
as our correspondence address.**